

AMENDING THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED, TO AUTHORIZE THE ADMINISTRATOR OF GENERAL SERVICES TO ENTER INTO LEASE-PURCHASE AGREEMENTS TO PROVIDE FOR THE LEASE TO THE UNITED STATES OF REAL PROPERTY AND STRUCTURES FOR TERMS OF MORE THAN 8 YEARS BUT NOT IN EXCESS OF 25 YEARS AND FOR ACQUISITION OF TITLE TO SUCH PROPERTIES AND STRUCTURES BY THE UNITED STATES AT OR BEFORE THE EXPIRATION OF THE LEASE TERMS

SEPTEMBER 18 (legislative day, SEPTEMBER 13), 1951.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. 2137]

The Committee on Expenditures in the Executive Departments, having considered a bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the Administrator of General Services to enter into lease-purchase agreements to provide for the lease to the United States of real property and structures for terms of more than 8 years but not in excess of 25 years and for acquisition of title to such properties and structures by the United States at or before the expiration of the lease terms, and for other purposes, having considered the same, report favorably a committee bill (S. 2137) and recommend that the bill do pass.

This bill is in the nature of a substitute for S. 1621, on which hearings were held by the committee.

PURPOSE

The purpose and intent of this bill is to authorize the Administrator of General Services to enter into lease-purchase agreements for a period of not less than 8 years nor more than 25 years, for acquisition of real property for permanent space requirements of Federal departments and agencies of the Government.

Under the provisions of the bill the Government would be authorized to apply funds appropriated for rent payments toward the liquidation

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of such lease-purchase contracts under the existing 15 percent per annum rent limitation based on the fair market value of the property at the time the agreement was entered into. The title would vest in the Government after the expiration of the designated lease period, with the rental paid, including interest, taxes, etc., constituting the total purchase price.

The objective of the bill is to permit the Government to procure permanent space for permanent agencies in communities throughout the United States where it is clearly established that continuing Federal activities in such areas will be fully utilized in the conduct of Federal business. The General Services Administration would be vested with the authority to reallocate space in buildings purchased under such contracts to meet shifting agency needs, thus insuring continuous and full utilization of facilities procured.

The provisions of the bill would enable the Federal Government to procure office and other space under private construction programs at low rates of interest over an extended period of liquidation within appropriations to Federal agencies now provided for the payment of rent. Its enactment would tend to eliminate high recurring rents necessary under present short-term lease contracts by encouraging private investment firms, insurance companies, and local banking institutions to provide necessary construction funds under a Federal guaranty against loss and with the assurance of a fair return on investments over an extended period of years. Properties involved would also continue to be subject to taxes during the period of such leases, the Government recovering much of these investments through procurement of title to the properties under contract at the expiration of the lease period.

To bring about conformance to the intent of Congress in connection with the execution of lease-purchase agreements, provision is made that no such agreements shall be executed until submitted to and approved by the Committees on Expenditures in the Executive Departments of the House and Senate.

GENERAL STATEMENT AND ANALYSIS OF THE BILL

The proposed amendment to section 211 of the Federal Property and Administrative Services Act of 1949, under the subject bill, would authorize the Administrator of General Services to obtain and provide space for the accommodation of the permanent activities of the Government, both in and outside of the District of Columbia, within the continental limits of the United States, including, with the approval of the Postmaster General, activities of the Post Office Department, by negotiating and entering into lease-purchase agreements. The terms of these agreements are not to be less than 8 or more than 25 years, and in each case they would provide that title to the property shall vest in the United States at or before the expiration of the leasehold term and upon the fulfillment of the terms and conditions stipulated in the lease-purchase agreement. The objective is to permit the Federal Government to purchase buildings for governmental use by applying rental payments under leases against the purchase price. However, the payments which would be made by the Government would consist not only of rental in the strict sense

of that term but would also include moneys on account of the purchase price of the property as well also as payments in respect to interest, taxes, insurance, etc.

The measure would enable the Government to procure space through private construction at low interest rates, within appropriations to Federal agencies for payment of rent. General use of the lease-purchase agreement would, to the knowledge of the committee, be something new in Government operations. However, it is appropriate to note that authorization for application of the lease-purchase principle in a particular instance has been granted by the Congress in a very recent enactment; namely, Public Law 74 of the Eighty-second Congress, approved July 11, 1951, and entitled "An act to authorize the lease and purchase by the United States of the Young Men's Christian Association Building and premises in Phoenix, Ariz."

With the constant growth of the Government, additional space for its permanent activities is presently required both within and outside of the seat of government, and all indications point to progressive increase of such requirements in the future. Historically, the Government has obtained the space it needs either through construction or by rental of privately owned space under short-term lease agreements. The result has been that the Government in many cases has rented the same buildings from year to year for periods as long as 40 to 50 years, paying the real value of the property over and over again. This legislation would remedy the situation by allowing contracts to be entered into with private industry, covering rent and normal carrying charges, but under which ownership of the property would ultimately vest in the Government.

The United States for a number of years has been in a rapidly expanding economy, accompanied by marked increase in population. Office building construction has not kept apace with this development. With the existing high costs necessary to construct office buildings, private enterprise has been reluctant to go ahead with new construction. Rentals necessary to provide a reasonable return thereon are much in excess of the rentals that can be charged on buildings constructed 15 to 20 years ago. There must be assurance of continued occupancy for a period of years in order to offer a sound investment.

The Government finds itself at present competing with private enterprise for space at increasingly high rentals. These rentals in many cases have reached a point where, if applied to contracts entered into pursuant to the provisions of the pending bill, they would be sufficient to permit transfer of title to the Government in from 8 to 25 years. It is apparent, therefore, that considerable money could be saved to the Government by virtue of the proposed legislation, as contrasted to straight short-term leases to the Government at the termination of which it would have nothing by way of title to the properties.

An important feature of the bill is the authorization to the Administrator of General Services (contained in subsec. (b)) to exercise the powers granted by the measure with respect to existing properties, including those for which conversions, additions, extensions, or remodeling may be required, and properties upon which construction is to be subsequently effected in pursuance of the terms of applicable lease-purchase agreements. From time to time properties become available at reasonably low prices as they become surplus to the

owners' use. Often these properties can be converted and remodeled so as to make satisfactory quarters for the Government. This is particularly true of warehouses and semioffice buildings, and in cases where the business center of a city has shifted and a considerable reduction in real estate values occurs in the location of the former center.

Subsection (c) is also important in that it would authorize the Administrator to bring about the development and improvement of any land owned by the United States and under the control of the General Services Administration. From time to time properties have been purchased throughout the United States, and are valuable and should be improved. That end could be economically attained under the authorization proposed by subsection (c).

Subsection (d) embodies a limitation to the effect that no lease-purchase agreement may provide for the payment by the United States of moneys in an aggregate annual amount in excess of 15 percent of the appraised fair market value of the property covered by the agreement. This provision, which is in line with the inhibition contained in section 322 of the act of June 30, 1932 (the so-called Economy Act), conforms to the intent of the bill, that the lease-purchase agreements shall be long-term in character. The committee believes that this provision would not only operate as a salutary check on administrative discretion, but would also make financing that much more attractive to interested investors. The committee recommended that the 15 percent limitation shall apply to the appraised fair market value, it being the understanding of the committee that the appraisals will be made by the General Services Administration, and that that Administration will make its determinations of fair market value in accordance with the general practices now prevailing with reference to the acquisition of public property.

The committee has also included in the bill a subsection designated as (e) which would require that each proposed lease-purchase agreement, before execution, be submitted to and approved by the Committees on Expenditures in the Executive Departments of the Senate and of the House of Representatives. This amendment of the Federal Property and Administrative Services Act of 1949 was carefully considered by the committee, and, because of the broad discretionary authority vested in the Administrator under the provisions of this bill and the impact its exercise may have on real property throughout the country, the committee agreed that examination and approval of each lease-purchase agreement should be made by the Senate and House Committees on Expenditures in the Executive Departments before consummation of such agreements.

In inserting this subsection in the bill, the committee was of the opinion that sufficient authority would be vested in the Administrator of General Services to permit him to obtain options on property under a proposed lease-purchase agreement, when he finds such procurement is in the best interest of the Government, over a period not to exceed 120 days, in order to permit of examination of the agreement by these committees before a final contract is executed. It is believed that there would be no difficulty in procuring such options, under a specific time limitation, pending approval or disapproval by the respective committees.

Subsection (f) would authorize payments becoming due from the Government as current charges in connection with lease-purchase agreements to be made from appropriated funds available for the payment of rent and related charges for premises. It is provided, however, that no such funds may be expended for acquisition of title to the property covered by any such agreement prior to the expiration of the leasehold term specified therein (whether by exercise of option to purchase or otherwise) in the absence of specific appropriation of funds for such acquisition. Such appropriations would be expressly authorized, subject to approval by the Appropriations Committees of the Congress.

Subsection (g) is divided into paragraphs (1) and (2). Paragraph (1) would make section 302 (c) of the Federal Property and Administrative Services Act of 1949, which requires that all purchases and contracts for supplies and services shall be made by advertising except for certain specified classes and situations where negotiation without advertising is permissible, apply to lease-purchase agreements executed under the authority of this proposed legislation.

This paragraph would also make applicable to such agreements section 355 of the Revised Statutes, requiring the written opinion of the Attorney General to be had in favor of validity of title to land proposed for purchase by the United States for purposes of construction in advance of expenditure of public money, but sets forth an exception to the effect that any lease-purchase agreement may be executed and placed in effect after request for but prior to receipt of an opinion of the Attorney General with respect to the validity of title to the property described therein. In connection with this exception, it is the view of the committee that the provision should be administered on the basis that validity of title is to be established within a period of 1 year from the date of each lease-purchase agreement, and that the Federal Government's expenditures during the intervening period would be adequately protected in the event title was not clear.

The flexible and convenient mode of acquisition of space provided for in the bill could not be put into effect without the exceptions specified in paragraph (2) of subsection (g) from certain restrictions imposed by existing statutes, summarization of which follows: Section 3734 of the Revised Statutes, as amended, provides that no money shall be paid nor contracts made for payment for any site for a public building in excess of the specific appropriation therefor. Section 3736 of the Revised Statutes is to the effect that there shall be no purchase of land for the United States without specific congressional authorization. Section 1 of the act of March 3, 1877, provides that no lease shall be made in the District of Columbia for the Government without an appropriation therefor. Section 4 of the act of June 14, 1946, as amended, and section 407 of the act of June 16, 1949, as amended, respectively limit the procurement of space by lease by the Administrator of General Services for the housing of Federal agencies to periods not in excess of 5 years outside of the District of Columbia, and to periods not in excess of 1 year in the District. Paragraph (2) of subsection (g) concludes with a "catch-all" exception from any other provision of law relating to acquisition of real property, construction of buildings, or leasing of space, subject to the specific provisions of the proposed legislation.

The bill, as reported by the committee, has the approval of the Bureau of the Budget, the General Services Administration, the General Accounting Office, and a majority of the departments and agencies of the Federal Government. Considerable time and study were devoted to clarifying the bill in line with a number of specific amendments which were considered and approved by the committee, in consultation with the legislative counsel of the Senate, and representatives of the Bureau of the Budget, the General Services Administration, and the Comptroller General of the United States.

The committee regards the lease-purchase procedures and objectives set forth in this bill to be a constructive step toward improving the procurement program of the Government in providing permanent office and warehouse facilities for Federal agencies throughout the country. It is in accord with the objectives set forth in the Hoover Commission's report on general services and further implements the provisions of the original Federal Property and Administrative Services Act.

The committee is firmly convinced that the enactment of this proposed legislation would provide a sound and continuing basis for the realization of economies in government in its property management program, and a further important step toward promoting more efficiency in Government operations.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by this bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 (63 STAT. 377),
AS AMENDED BY PUBLIC LAW 754, EIGHTY-FIRST CONGRESS (64 STAT. 578)

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LEASE-PURCHASE AGREEMENTS

SEC. 211. (a) Whenever the Administrator determines that (1) the needs for space for the permanent activities of the Federal Government in any particular area cannot be satisfied by utilization of any existing property suitable for the purpose then owned by the Government and (2) the best interests of the United States will be served by taking action hereunder, he is hereby authorized to obtain and provide space for the accommodation of activities of the Government, both in and outside of the District of Columbia, within the continental limits of the United States, including, with the approval of the Postmaster General, activities of the Post Office Department, by negoti-

ating and entering into lease-purchase agreements the terms of which shall not be less than eight or more than twenty-five years and which shall provide in each case that title to the property shall vest in the United States at or before the expiration of the leasehold term and upon fulfillment of the terms and conditions stipulated in each of such lease-purchase agreements. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of rental payments made thereunder.

(b) The Administrator is authorized to exercise the powers granted in this section with respect to existing properties, including those for which conversions, additions, extensions, or remodeling may be required, and properties upon which construction is to be subsequently effected in pursuance of the terms of applicable lease-purchase agreements.

(c) The Administrator is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity, to effectuate any of the purposes of this section; and is further authorized to bring about the development and improvement of any land owned by the United States and under the control of the General Services Administration, including the demolition of obsolete and outmoded structures situate thereon, by providing for the construction thereon by others of such structures and facilities as shall be the subject of the applicable lease-purchase agreement.

(d) Each such lease-purchase agreement shall include such provisions as the Administrator, in his discretion, shall deem to be in the best interests of the United States and appropriate to secure the performance of the obligations imposed upon the party or parties that shall enter into such agreement with the United States: Provided, That no such agreement may provide for the payment by the United States in pursuance of the terms thereof of moneys in an aggregate annual amount in excess of 15 per centum of the appraised fair market value of the property at the date of the lease-purchase agreement, or in the case of property where construction shall not have been completed at that date, in excess of 15 per centum of the fair market value at the date of completion of such construction.

(e) No proposed lease-purchase agreement shall be executed under this section until it has been submitted to and approved by the Committee on Expenditures in the Executive Departments of the Senate and the Committee on Expenditures in the Executive Departments of the House of Representatives.

(f) Funds now or hereafter available for the payment of rent and related charges for premises, whether appropriated directly to the General Services Administration or to any other agency of the Government and received by said Administration for such purpose, may be utilized by the Administrator to make payments becoming due from time to time from the United States as current charges in connection with agreements entered into under authority of this Act: Provided, That no such funds may be expended for acquisition of title to the property covered by any such agreement prior to the expiration of the leasehold term specified therein (whether by exercise of option to purchase or otherwise) in the absence of specific appropriation of funds for such acquisition, which appropriations are hereby authorized.

(g) (1) Section 302 (c) of this Act and section 355 of the Revised Statutes, as amended (50 U. S. C. 175), shall apply to lease-purchase agreements executed under this Act, except that any such agreement may be executed and placed in effect after request for but prior to receipt of an opinion of the Attorney General with respect to the validity of title to the property described therein.

(2) Except as provided by paragraph (1), sections 3734 and 3736 of the Revised Statutes, as amended (40 U. S. C. 259; 41 U. S. C. 14); section 1 of the Act of March 3, 1877 (19 Stat. 370; 40 U. S. C. 34); section 4 of the Act of June 14, 1946 (60 Stat. 257), as amended; 40 U. S. C. 304c; section 407 of the Act of June 16, 1949 (63 Stat. 199; 40 U. S. C. Supp. 37a); and any other provision of law relating to the acquisition of real property, construction of buildings, or leasing of space, shall not apply to lease-purchase agreements executed under this Act.

(h) This section may be cited as the "Federal Lease-Purchase Act of 1951".

MOTOR VEHICLE IDENTIFICATION

SEC. [211] 212. Under regulations prescribed by the Administrator, every motor vehicle acquired and used for official purposes within the United States, its Territories, or possessions, by any Federal agency or the District of Columbia shall be conspicuously identified by showing thereon either (a) the full name of the department, establishment, corporation, or agency by which it is used and the service in which it is used, or (b) a title descriptive of the service in which it is used if such title readily identifies the department, establishment, corporation,

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or agency concerned, and the legend "For official use only": *Provided*, That the regulations issued pursuant to this section may provide for exemptions from the requirement of this section when conspicuous identification would interfere with the purpose for which a vehicle is acquired and used.

REPORTS TO CONGRESS

SEC. [212] 213. The Administrator shall submit a report to the Congress, in January of each year and at such other times as he may deem it desirable, regarding the administration of his functions under this Act, together with such recommendations for amendments to this act as he may deem appropriate as the result of the administration of such functions, at which time he shall also cite the laws becoming obsolete by reason of passage or operation of the provisions of this Act.

